



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-489-835]

Dried Tart Cherries from the Republic of Turkey: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that dried tart cherries (cherries) from the Republic of Turkey (Turkey) are being, or are likely to be, sold in the United States at less than fair value (LTFV).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Alex Wood or Alice Maldonado, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-1959 or (202) 482-4682, respectively.

SUPPLEMENTARY INFORMATION:

Background

This final determination is made in accordance with section 735 of the Tariff Act of 1930, as amended (the Act). The petitioner in this investigation is the Dried Tart Cherry Trade Committee. The mandatory respondents in this investigation are Isik Tarim Urunleri Sanayi ve Ticaret A.S. (Isik Tarim) and Yamanlar Tarim Urunleri (Yamanlar Tarim). Neither of the

mandatory respondents responded to our requests for information in this investigation. On September 27, 2019, Commerce published in the *Federal Register* the *Preliminary Determination* and invited interested parties to comment.¹ We received no comments regarding the *Preliminary Determination*.

Period of Investigation

The period of investigation is April 1, 2018 through March 31, 2019.

Scope of the Investigation

The products covered by this investigation are cherries from Turkey. For a complete description of the scope of this investigation, *see* the appendix to this notice.

Methodology – Adverse Facts Available (AFA)

For purposes of this final determination, we relied solely on facts available because neither of the selected mandatory respondents participated in this investigation, pursuant to section 776(a)(2)(A)-(C) of the Act. Further, because the mandatory respondents did not cooperate to the best of their abilities in responding to our requests for information in this investigation, we drew adverse inferences in selecting from among the facts otherwise available, in accordance with section 776(b) of the Act. No interested party submitted comments on the *Preliminary Determination*. Therefore, consistent with the *Preliminary Determination*, we continue to apply adverse facts available to Isik Tarim and Yamanlar Tarim for this final determination, and we made no changes to the estimated dumping margins for the mandatory respondents for the final determination. A detailed discussion of our application of AFA is

¹ *See Dried Tart Cherries from the Republic of Turkey: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 51112 (September 27, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

provided in the *Preliminary Determination* and the accompanying Preliminary Decision Memorandum.²

All-Others Rate

As discussed in the *Preliminary Determination*, Commerce calculated the all-others rate as a simple average of the alleged dumping margin(s) from the petition, in accordance with section 735(c)(5)(A) of the Act.³ We made no changes to the selection of the all-others rate for this final determination.

Final Determination

Commerce determines the following estimated dumping margins:

Company	Weighted-Average Dumping Margins
Isik Tarim Urunleri Sanayi ve Ticaret A.S.	648.35 percent
Yamanlar Tarim Urunleri	648.35 percent
All Others	541.29 percent

Disclosure

Because Commerce applied AFA to the individually-examined companies, Isik Tarim and Yamanlar Tarim, in this investigation, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the petition, there are no calculations to disclose for this final determination pursuant to 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct CBP to continue the suspension of liquidation of all appropriate entries of subject merchandise, as described in

² *Id.* PDM at “Use of Facts Otherwise Available and Adverse Inferences.”

³ See *Preliminary Determination*, 84 FR at 51113.

Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after September 27, 2019, the date of publication of the *Preliminary Determination* of this investigation in the *Federal Register*. Further, Commerce will instruct CBP to require a cash deposit in the amounts shown above.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), Commerce will also instruct CBP to collect a cash deposit equal to the estimated dumping margin as follows: (1) the cash deposit rate listed for the respondents listed in the chart above will be equal to the respondent-specific estimated dumping margin that we have determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Because the final determination in this proceeding is affirmative, in accordance with section 735(b) of the Act, the ITC will make its final determination as to whether the domestic

industry in the United States is materially injured, or threatened with material injury, by reason of imports of cherries from Turkey no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an AD order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 735(d) and 777(i) of the Act.

Dated: December 4, 2019.

Jeffrey I. Kessler,

Assistant Secretary

for Enforcement and Compliance.

Appendix

Scope of the Investigation

The scope of this investigation covers dried tart cherries, which may also be referred to as, *e.g.*, dried sour cherries or dried red tart cherries. Dried tart cherries may be processed from any variety of tart cherries. Tart cherries are generally classified as *Prunus cerasus*. Types of tart cherries include, but are not limited to, Amarelle, Kutahya, Lutowka, Montmorency, Morello, and Oblacinska. Dried tart cherries are covered by the scope of this investigation regardless of the horticulture method through which the cherries were produced (*e.g.*, organic or not), whether or not they contain any added sugar or other sweetening matter, whether or not they are coated in oil or rice flour, whether infused or not infused, and regardless of the infusion ingredients, including sugar, sucrose, fruit juice, and any other infusion ingredients. The scope includes partially rehydrated dried tart cherries that retain the character of dried fruit. The subject merchandise covers all shapes, sizes, and colors of dried tart cherries, whether pitted or unpitted, and whether whole, chopped, minced, crumbled, broken, or otherwise reduced in size. The scope covers dried tart cherries in all types of packaging, regardless of the size or packaging material.

Included in the scope of this investigation are dried tart cherries that otherwise meet the definition above that are packaged with non-subject products, including, but not limited to, mixtures of dried fruits and mixtures of dried fruits and nuts, where the smallest individual packaging unit of any such product contains a majority (*i.e.*, 50 percent or more) of dried tart cherries by dry net weight. Only the dried tart cherry components of such products are covered by this investigation; the scope does not include the non-subject components of such products.

Included in the scope of this investigation are dried tart cherries that have been further processed in a third country, including but not limited to processing by stabilizing, preserving, sweetening, adding oil or syrup, coating, chopping, mincing, crumbling, packaging with non-subject products, or other packaging, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the dried tart cherries.

Excluded from the scope of this investigation are dried tart cherries that have been incorporated as an ingredient in finished bakery and confectionary items (cakes, cookies, candy, granola bars, *etc.*).

The subject merchandise is currently classifiable under 0813.40.3000 of the Harmonized Tariff Schedule of the United States (HTSUS). The subject merchandise may also enter under subheadings 0813.40.9000, 0813.50.0020, 0813.50.0060, 2006.00.2000, 2006.00.5000, and 2008.60.0060. The HTSUS subheadings set forth above are provided for convenience and U.S. customs purposes only. The written description of the scope is dispositive.

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